

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

---

United States of America,

Criminal No. 08-395 (3) (RHK/JJG)

Plaintiff,

**ORDER**

vs.

Fredrick Deshawn Holmes,

Defendant.

---

Before the Court is Defendant's Motion for Modification or Reduction of Sentence pursuant to 18 U.S.C. § 3582(c)(2). By way of background, Defendant entered a guilty plea to Count I of the Indictment charging him with conspiracy to distribute crack cocaine in violation of 21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(B). Defendant's advisory guidelines range of imprisonment was 100-125 months, but he was also subject to a ten-year mandatory minimum sentence pursuant to 21 U.S.C. § 841(b)(1)(A). He was sentenced to the 120-month mandatory minimum.

In the Motion now before the Court, he seeks a reduction in his sentence pursuant to 18 U.S.C. § 3582(c)(2) and retroactive application of such reduction pursuant to Amendment 750 to the Sentencing Guidelines.

Because of the mandatory minimum sentence imposed here, Defendant is not eligible for a sentence reduction below that minimum of 120 months. In addition, the reduced mandatory minimum set forth in the Fair Sentencing Act is to be applied retroactively, but only to defendants who committed their offenses before the Fair

Sentencing Act's enactment on August 3, 2010, but were sentenced afterward. Because the Defendant's criminal conduct here and his sentencing both occurred prior to the enactment of the Fair Sentencing Act, he is not entitled to the relief he seeks.

Accordingly, and upon all the files, records and proceedings herein, **IT IS ORDERED** that Defendant's Motion for Modification or Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(2) is **DENIED**.

Dated: January 8, 2013

s/Richard H. Kyle  
RICHARD H. KYLE  
United States District Judge